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The principles of rating
and assessment...

Manchester

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The Co-operative Union Limited.

**The Principles of
Rating and . . .
Assessment, and
their Application
to Co-operative.
Property.**

By Mr. G. BRIGGS, F.C.I.S.

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Industrial Society).

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1903.

The Principles of Rating and Assessment, and their Application to Co-operative Property.

THE subject is rather a technical one, and one that is difficult to treat within the limits of the space at our disposal. It is certainly a very important one to us as co-operators, seeing that in 1904 we owned land, buildings, machinery, and fixed stock valued at £14,184,948. and cottage property valued at £6,434,899, a total of over 20½ million pounds, and a total increase of £1,043,949 for the year. Nearly half this amount is in the North-Western Section alone. This does not include our property as individual citizens (except in a few cases), so that this again would, if it could be ascertained, considerably swell the total.

It is of vital importance to us, therefore, that we should seek to understand the principles on which our rates are laid, and the method of procedure employed to arrive at the assessment; also to see whether such assessment is a just and equitable one, and, if not, what means are open to us to remedy any injustice in this respect.

Let me say here at the outset, that we, as co-operators, have no wish to avoid in any way our legal obligations as citizens with respect to our due share of such rates, neither, on the other hand, do we wish to pay more than our due proportion.

You are doubtless aware that of late years, with our increased requirements from the local authorities, there has been a considerable increase in the rates. This increase has not met with the universal approval of the ratepayers; so in many instances, in order to make it less apparent, recourse is made to raising the assessments. If this was done all round there would be no injustice in it, but, unfortunately, such is not the case; only a partial re-valuation is made, and the newer and larger properties only are often dealt with.

As an example of this, I may say that a well-known financier in York claims "that the licensed property in the city,

according to figures obtained from recent sales of such property should be rated at least double what it is at present. If such was done, it would reduce the rates 2½d. in the pound all round." There is evidently something in his contention, as the overseers have at last begun to move in the matter, and a re-valuation of licensed property is now proceeding.

I have not tried to deal with the various proposals to alter the basis or scope of rating, but simply to confine myself, as far as possible, to the laws which have led up to or are existing to-day.

GENERAL FOUNDATION OF THE PRESENT LAW OF RATING.

The ground work of our law of rating for the relief of the poor is the Statute of 1601, 43, Eliz., C. 2.

The necessity of this Statute has been established beyond all controversy; vagrancy and mendicancy were on the increase to an alarming degree, accompanied by highway robberies and like felonies, and this Act was passed to a certain extent as a safeguard to property and to the person, as well as to relieve the poor. Those who were incapable were provided for, whilst, on the other hand, those who were willing to earn an honest livelihood were provided with work, the payment consisting of food and lodging, so that no man need steal to live, or commit crime to obtain the mere necessities of life.

This Statute directed the overseers to raise by taxation of every inhabitant, parson, vicar, and others, and of every occupier of lands, houses, tithes, impropriate or propriations of tithes, coal mines, or saleable underwoods in the parish. Under this enactment not only were the occupiers of land liable to be rated, but also all inhabitants, whether they held land or not.

An Act to Regulate Parochial Assessments, 6 and 7, William IV., Cap. 96, was passed in 1836. By 4 and 5, William IV., C. 76, S. 62, power was given to ratepayers in any parish to raise money on the security of the rates.

By 3 and 4, Victoria, C. 89, personal property was exempted from rating (made perpetual by 59 and 60, Victoria, C. 39).

Profits derived from stocks-in-trade are not rateable according to this Act

The Rating Act of 1874 (37 and 38, Victoria, C. 54) added "Sporting Rights" when severed from the occupation of the land, and also provides for mining rights and reservations of every kind.

The Advertising Stations Rating Act, 1889 (52 and 53, Victoria, C. 27), extended the rateability to advertisement hoardings.

The Agricultural Rates Act, 1896 (59 and 60, Victoria, C. 16) relieved the occupiers of agricultural land in England of one-half the rates for five years, and this has since been renewed by Continuance Act (1, Edward VII., C. 13), and is still in force.

To briefly summarise the foregoing:—Occupiers of the following hereditaments are liable to be rated—Land (if agricultural, at half the rate), buildings, mines, tithe rent charge, land used for a plantation or a wood, or for the growth of saleable underwood, and not subject to any right of common, sporting rights when severed from the occupation of land, advertising stations.

There are numerous exceptions in favour of Crown property, courts of justice, police stations, churches and chapels (if duly certified), Sunday and ragged schools, &c., &c., &c.

The exceptions worth noting by us are as follows:—

Property unoccupied; but no allowance is made in the case where certain rooms in a building are unused or unoccupied by the owner or occupier.

Where a tenant, through excessive poverty, is excused his rates, a landlord cannot be held liable in respect of houses let to such tenants. Property during construction is not rateable, as there is no beneficial occupation.

Where fields are taken for catage, the owner is held to be rateable.

APPOINTMENT OF OVERSEERS.

By the Act of Elizabeth (1601), the churchwardens of every parish and four, three, or two substantial householders, according to size of parish, were nominated yearly in Easter Week, or within one month after Easter, by the justices, and were to be called overseers of the poor. By the Overseers Act (54, George III., C. 91), the appointment was to be made on or within fourteen days after March 25th. Under the Local Government Act, 1894, in rural parishes the

churchwardens have ceased to be overseers, and additional overseers may be appointed in their places. The overseers are to be appointed at the parish council or parish meeting.

The churchwardens of ancient ecclesiastical parishes continue to act as ex-officio overseers, but section 33 enables the Local Government Board, on the application of the council of any municipal borough or of any other urban district, to confer on such council or some other representative body the appointment of overseers and assistant overseers, the revocation of appointment, any powers, duties, or liabilities of overseers, or of a parish council.

It is now the duty of the guardians (not of the overseers) to estimate the sums required for the relief of the poor, and they call upon the overseers to collect it.

It is the duty of the overseers to make a new rate, when required, for which purpose they have to ascertain the rateable value of the whole parish, also of each property in the parish.

The Parochial Assessment Act provides that the rate is to be made upon an estimate of the net annual value of the properties in the parish.

The purpose of the Parochial Assessment Act is to provide for equality of rating of each of the rateable subjects in one parish. The purpose of the Union Assessment Acts is to provide for equality in the rating of each aggregate or rateable values of each of the parishes in the union. This latter purpose is to be effected by applying with correct uniformity throughout every parish of the union the principles of estimating value as required by the Parochial Assessment Act. The fourteenth section of the Union Assessment Committee Act, 1862, provides that the overseers of each parish shall, within three calendar months after the appointment of the assessment committee, make a list of all the rateable hereditaments in the parish, with their annual values; and undutaments in the parish, with their annual values; and unless the overseers think that the valuation last acted upon correctly shows the full annual rateable value, they are to revise the valuation and sign same.

APPOINTMENT OF ASSESSMENT COMMITTEES.

The Union Assessment Committee Act, 1862, requires the board of guardians, at their first meeting after April 15th

in every year, to appoint an assessment committee from among themselves, in number not less than six or more than twelve, for the investigation and supervision of the valuations to be made in the union.

Where any union has the same bounds as a municipal borough, the town council may, if they think fit, appoint from themselves to the assessment committee such a number not exceeding those appointed by the guardians.

The authority of the committee extends over every parish in the union.

Any guardian of the union may be present at the meetings of the committee, but he is not entitled to take part in the proceedings.

RIGHT OF INSPECTION.

Ratepayers are entitled to inspect the committee's minute book, and to take copies or extracts therefrom without fee.

The committee have power to direct a division or a new valuation being made by the overseers, or, with the consent of the board of guardians, to appoint and pay some person to do it, and deposit same with the overseers. The ratepayers have power to inspect and take copies of such lists when deposited with the overseers. This right of inspection is very valuable, as it enables any ratepayer who thinks he is unfairly dealt with to compare the values placed on similar properties to his own before appealing, if necessary. Any overseer of any parish in the union may object to the valuation list, also any individual ratepayer, on the ground of unfairness, incorrectness, or omission, within twenty-eight days.

If he objects to some other person's valuation, a similar notice must be given to such person. Some people have thought that this notice should be given in every case where another person's property is mentioned, even if only for comparison, but this is not the case.

The objector may attend personally, or by solicitor or agent, and state his case.

The committee fix meetings, of which due notice is given, for hearing objections, and have power to amend and order alteration of current rate by due notice to overseers.

After due notice, objection may likewise be taken to the amended list.

The committee then hear and determine such objections, and finally approve.

Section 22 provides that if any ratepayer appeal to Special or Quarter Sessions, and succeed in his appeal, the committee must alter the valuation list accordingly.

It may, perhaps, be as well to note here that, as the incidence of local taxation has increased since the passing of the Act of Elizabeth, a large amount of money is raised by means of the poor rate, and is spent on purposes which have no connection with poor relief, but for convenience is levied as part of the poor rate on precepts received by the overseers from the spending authorities.

The following table shows the principal spending authorities outside the Metropolis, the rates to which they have recourse, and the more important purposes upon which the rates are spent:—

Authority.	Rate.	Purpose.
Guardians and Overseers	Poor rate	Relief of poor and minor services.
County Council	County rate (part of poor rate)	Police, main roads, asylums, &c.
Town Councils	Borough rate, and in some cases watch rate (both sometimes part of poor rate)	Municipal services, police and asylums in some cases, &c.
	General district rate or improvement rate	Roads, sanitary services, &c.
Urban District Councils	General district rate or improvement rate	Roads, sanitary services, &c.
Rural District Councils	Poor rate	Highways and general expenses.
	Special expenses rate	Sanitary works.
Parish Councils	Poor rate	General parochial services.
	Lighting rate	Lighting.

Having dealt with the principles and foundations underlying the present law of rating, and the liability or non-liability of persons and property, we next have to consider the question of value.

It is enacted by the Statute of 6 and 7, William IV., Cap. 96, that "Every rate for the relief of the poor shall be made upon an estimate of the net annual value of the several hereditaments rated thereunto—that is to say, of the rent

at which the same might reasonably be expected to let from year to year, free of all usual tenants' rates and taxes, and tithe commutation rent charge, if any, and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses, if any, necessary to maintain them in a state to command such rent."

Although the Act passed in 1836 defines the net annual value in the first section, which was to be made the subject of the rate, in section 2 reference is made to the gross estimated rental for which there is a column in the form of the rate given in the schedule.

By a circular issued by the Poor-Law Commissioners, dated June 22nd, 1837, they express their opinion upon the meaning of the Statute by giving the following definitions of gross rent and net rent:—

Gross Rent. The rent which would be paid to a landlord, who himself undertakes to pay all the usual tenants' rates and taxes with which the hereditaments or premises rented by the tenant are chargeable, together with the tithe commutation rent charge, the expense of upholding the buildings in tenantable repair, insurance against loss by fire, and any other expenses (if any shall exist) necessary to maintain such hereditaments in a state to command such gross rent.

Net Rent. The amount which is received by, or which remains clear in the hands of, a landlord, after all such taxes, charges, and expenses as above enumerated shall have been provided for.

The York Union give a scale of deductions from the gross estimated rental to arrive at the rateable value, viz.:—

Land	10	per cent., or 2s. 0d. in the pound.
Houses, with land	12½	" or 2s. 6d. " "
Houses under £10 per annum	25	" or 5s. 0d. " "
" " £40 " " " " " " " " " " " " " " " "	15	" or 3s. 0d. " "
" " £40 and upwards	10	" or 2s. 0d. " "
Mills and Warehouses	20	" or 4s. 0d. " "

This makes the allowances uniform in all similar cases, and a similar system is generally followed in other Unions, but the scales may differ considerably, and may be set aside on appeal, as was done in the case quoted on page 13. This scale is certainly not as liberal in its allowances as many which might be quoted.

In "Penfold on Rating," by Glen, it is pointed out* that the leasehold tenure under which rent is paid may be:—

(1) On a lease for a term of years, the tenant paying rates, taxes, insurance, and repairs.

(2) On a yearly tenancy, where the tenant pays rates and taxes, but does not repair.

(3) On a short tenancy, the tenant simply paying his rent, and the landlord undertaking rates, taxes, insurance, and repairs.

The Parochial Assessment Act takes the second as the tenure under which the property to be assessed shall be supposed to be held.

If it is not held under this statutory tenure, it becomes necessary to ascertain the extent to which the rent a tenant might be expected to pay is affected by the difference between the terms on which the property is actually held, and those on which it would be held under the statutory tenure.

Thus if a premium has been paid for a lease, it represents the present value of a certain annual payment during the period of the lease for which the tenant compounds, thereby reducing his annual rent; an addition must, therefore, be made to the actual rent, in order to ascertain the hypothetical rent. Assuming that a house is held on a repairing lease, and the outgoings are as follows:—

Rates and Taxes	£20
Repairs, £10; Insurance, £2	£12
Rent	£68

thus it will be seen what the rent would be were it on a yearly tenancy.

The gross estimated rental is rent plus cost of repairs and insurances, viz., £80, because under the lease the tenant pays £12 per year in addition to his rent for repairs and insurances, whereas under the hypothetical tenure these expenses would fall on the landlord, and he would therefore have to require a proportionately higher rent to be paid by his tenant.

The rateable value will be £80 minus not merely £12, which would only pay insurance and temporary indispensable repairs, which, under an ordinary repairing lease, a tenant would be bound to do, but such further sum as ought to be

set aside annually by a prudent landlord for the ultimate renewal or reconstruction of the property.

Mr. Ryde on "Rating" puts it this way:—"In the case of houses let to weekly tenants, or of flats, the landlord generally undertakes to pay all rates, taxes, and water rate, and sometimes undertakes other duties. As under Section 1 of the Parochial Assessment Act, 1836, the rateable value is measured by a rent which is free of all usual tenants' rates and taxes. When these are included in the rent actually paid, a deduction must be made representing that part of the rent which the landlord will pay away in tenants' rates and taxes." This deduction must be calculated not on the total rent, but on the rateable value. An illustration will make it clear how in such a case the rateable value is to be found, our data being the sum paid by the tenant which is to cover all, say £13; the actual sum paid for water, say 10s.; the amount in the pound which the rates come to, say 5s.; and an estimate for the average cost of repairs, insurance, &c., say £2 10s. If we deduct the water rate, 10s., and the repairs, &c., £2 10s., together £3, we shall have £10 left, which represents the rateable value, plus 5s. in the pound on that rateable value.

Therefore, there are in the rateable value the same number of pounds as there are sums of £1 5s. in the £10, which would, of course, be £8. Or the sum might be thus stated:—

£10 rateable value	::	25s.	:	20s.
£10	=			25s.
Rateable value				20s.
25s. × Rateable value	=	200s.		
Rateable value	=	£8		

By the Poor Rate Assessment and Collection Act, 1869 (1), when the rateable value of any hereditament does not exceed £20 if in the Metropolis, £13 if in Manchester or Birmingham, or £8 elsewhere, the overseers may agree in writing with the owner to receive the rates (which are to be paid whether the hereditament be occupied or not) from him for any term not less than a year, and to allow him a commission not exceeding 25 per cent.

The vestry (or parish council or parish meeting, as the case may be), may order owners of all such hereditaments

to be rated instead of the occupiers with an abatement of 15 per cent., and a further abatement not exceeding 15 per cent. may be allowed to an owner who gives written notice to the overseers that he is willing to be rated for not less than a year, whether the hereditament be occupied or not.

Deductions for insurance against loss by fire applies to the rateable property, and not to insurances on furniture or stock.

In the case of co-operative societies, the society is generally the owner as well as the occupier.

It has been held that when the owner and occupier are one, the value of the property must be ascertained by determining the rent a hypothetical tenant would give for the property. In possible occupiers or tenants must be included the occupier or owner in this case. This decision is a far-reaching one, as it is often contended on the part of rich ratepayers that, because they are the owners or occupants of property, they expend a larger sum of money than is necessary to make the property fit for occupation, and that in calculating the rent a hypothetical tenant would give, such luxuries should be excluded from the valuation, but as actual occupier may be considered a possible tenant, it is supposed that he would give a rent to include such luxuries.

Whether the premises are in the occupation of the owner or not, the question to be answered is—Supposing they were vacant and to let, what rent might reasonably be expected to be obtained for them?

As a means of arriving at the gross rateable value, where the owner is also the occupier, the assessment committee often try to arrive at a basis by taking the purchase or cost price, and charging 3, 4, 5, or 6 per cent. on this sum as the estimated gross rental. This is not strictly in accordance with the law, as quoted in the case of a hypothetical tenant, but is a rough and ready way of trying to solve a difficult problem. Its injustice in many cases is obvious, when in different districts the rate varies as stated anywhere from 3 to 6 per cent, and this fact has been established by cases cited at various conferences. In the case of new properties acquired by any society, an equitable arrangement can often be arrived at by a conference with the "assistant overseer," where the latter is a reasonable person, such arrangement

either being acquiesced in or confirmed by the assessment committee. When such can be done, trouble and annoyance are avoided by both parties to the agreement.

If a house which lets for, say, £30 a year, is converted into a shop which would let as such for £60, it will be rateable at the latter figure.

Any improvements or additions to property, whether made by the owner or occupier, the occupier is rated on the improved value.

Hereditaments are rateable without reference "to the profits which may or may not be derived by the occupier," and "a party holding property in its nature rateable is not discharged from its legal liability because he does it at a loss," and there is a fallacy in confounding the rateable value to the poor rate with the remunerative value to the occupier.

Two tradesmen may occupy adjoining shops of equal value. One may make a fortune and the other become bankrupt, but this does not affect the value of the shops.

Co-operative societies sometimes purchase adjoining property for extensions at a higher rate than its market value; or, again, they may rent such property at a "fancy rent." The case of *Edwards v. Hutton* seems to have a bearing upon this. Dr. Lushington, in giving judgment, says: "I am of opinion that the actual rent is not a safe test of the relative value of lands. The actual rent of a property may be affected by special circumstances quite independent of its value, e.g., by the character of the landlord, according as he seeks a moderate and sure, or a high and uncertain, return; the position of the tenant, who may be willing to give what is called a fancy rent for the property, as adjoining other lands which he occupies or uses, &c., &c., &c."

It is interesting to note a recent decision at the York Quarter Sessions, on April 13th, 1905. This was an appeal against the rating on a house and shop in Coney-street, York. The gross value was £220, and the rateable value £198. The assessment was objected to, on the ground of excess and insufficient deduction being made from the gross value in order to arrive at the rateable value. After consideration, the learned Recorder had found that the gross value should be £190, and the rateable value £162. In so doing, he had considered the special circumstances of that

particular case, and he did not follow any hard and fast rule as to the general scale or percentage of deduction in the case of the various classes of property in the city. Assessment altered accordingly, and costs allowed to appellant. The rent in this case was £220 per year, on a seven years' lease, after alterations had been made. The deduction allowed, as per scale, was 10 per cent. Appellants' counsel contended "that the rent was excessive, and that it should not, therefore, be the basis of the assessment; or, at any rate, the assessment should not be so high. If a man made one bad bargain, it was no reason why he should have to make another; and if a man could show his premises were unfairly rented, the assessment should be reduced." He also contended "that the deduction of one-tenth was not sufficient to keep the property in repair, or provide a renewal fund, and that the deduction should be one-sixth."

In the case above quoted, you will see that both rent and scale of deduction were departed from in the judgment.

Care should be taken in making alterations to write off the value of property removed. Property can only be rated as it stands when altered, the question to consider being, "Is its value to let improved or otherwise, and by how much?"

Land bought for building purposes and not used for years, although capable of producing something which may be made beneficial, but from which land nothing whatever is, in fact, taken, is rateable on what it could be let at in the ordinary course. This refers to land capable of cultivation (see *Heaton app.*, *Harborne resp.*, in "Ryde on Rating").

Land or buildings which for various reasons are not lettable to anyone cannot be rated; but if no attempt is made to let, and for some reason or other the landlord does not care to let them, he can be rated as occupier.

An attempt is often made to rate societies higher, owing to their "power of influencing trade," &c.; perhaps the following quotation from Lumley's "Parochial Assessment," pages 64 and 65, is worth quoting in this connection:—

"Care, however, must be taken to avoid introducing goodwill or the power of influencing customers, or the profits of trade into the estimate of the value of property. The former is of too vague and personal a character to be the subject of estimate, and the latter result from the capital expended

in trade, not from the premises themselves, although as the amount of the profits may be affected by the peculiar position of the premises, the capacity of producing such profits is properly estimated in the calculation of the value of the particular premises in their special locality."

"So, also, the value of furniture or movable fixtures is not to be estimated in the value of the premises, unless that value be increased by the peculiar nature of the furniture; thus a dwelling house is not to be valued with reference to that furniture; but a factory fitted up with fixed machines, a foundry having its furnaces and forges attached, a shop having counters and shelves, a billiard room having billiard tables fixed in it, nursery grounds having conservatories, hot-houses, and greenhouses erected thereon, should be estimated at a higher value than similar premises where those appendages are wanting, because they are the proper fittings of the premises, without which the occupation would be comparatively of little value."

"Equally clear is the rule where fixed machinery, such as steam engines, vats, presses, salt pans, cranes, gasometers, retorts, purifiers, boilers, and the like is combined with the real property, and, though in some respects capable of severance, is fixed thereunto, it increases the value of the occupied property. It is, therefore, necessary that the value of such machinery and fixtures should be taken into the calculation in making the assessment."

Lord Esher, in the Court of Appeal, says: "Things which are on the premises for the purpose of making, and which, in fact, make those premises fit as premises for the particular purpose for which they are used, ought to be taken into account to ascertain the rateable value of the premises."

It is very difficult to deal with this vexed question of rateability of machinery. As a general rule, it may be stated that—

Premises with machinery attached are rateable according to the existing value of such buildings combined with the machinery.

When, however, circumstances occur which prevent the premises from being occupied for the purpose to which they are appropriated, the assessable value will not be estimated by the rent or by the rental value settled with reference to

that purpose. Thus, factories which ceased to be workable as such by reason of the "cotton famine" were held not to be assessable at their value as when worked, though they were assessable as warehouses for the storing of machinery, where such was kept in them.

The various judgments on different cases submitted to the courts are quoted at great length in "Faraday on Rating," to which book I would refer you for full details on this subject.

The "Rating of Machinery Bill" has again been before Parliament this session (1905), but has not yet passed. The following extract from the "Co-operative News" shows its aim very clearly:—

"The bill affects all co-operative societies which are entirely productive in their enterprise, or have factories connected with the stores. Briefly, the proposal is to exclude portable machinery from the calculations in the local valuation lists for rates. At the present time the assessors are empowered to take into account the stock of movable machinery in a factory, regardless as to whether the same is in use, on trial as improvements, or the adverse in an antiquated and unremunerative form. The promoters say that a perpetual influx of new machinery is essential for the very life of trade, that in large factories there is always a lot of such mechanism which never adequately pays for the space occupied, and scarcely the cost of working, but is kept going until thrown on the lumber heap to make way for more up-to-date inventions. The assessors look round for all the machinery which can be seen connected with a factory, and estimate an amount for valuation regardless of profit. Co-operators will realise that the bill raises a novel point in rating—that of exemption to contribution for local expenditure, and also whether our present method is just, and operates as a fine upon industry."

Since this subject was discussed at the various conferences at Halifax, Newcastle, and Crewe, an important judgment of the House of Lords re the Hunslet Rating Appeal (quoted in "Ryde on Rating," pages 826-828) has been given, and as it is a good typical case, and illustrates the rating of machinery pretty clearly, I quote it in extenso as it was reported in the "Yorkshire Post" of December 19th, 1905:—

THE HUNSLET RATING APPEAL.

JUDGMENT OF THE HOUSE OF LORDS.

In the House of Lords yesterday, the appeal of Mr. Thomas Kirby against an assessment of the Hunslet Union in respect of the Standard Works came before Lords Halsbury, Macnaghten, and Robertson. Both the High Court and the Court of Appeal affirmed the decision of the Recorder of Leeds. The case came before the Recorder on an appeal by Mr. Kirby against a rate made by the overseers upon the Standard Works, in respect of which he had been assessed with a poor rate for the township of Hunslet at £67 gross estimated rental, and £45 rateable value. Some part of the equipment of the works was fixed to the freehold, and formed part of the freehold by physical attachment. Other parts of the equipment consisted of machinery, also placed upon the premises for the purpose of making, and in fact making, them fit as premises to be used in engineering works, much of which was of considerable bulk and fitted to the premises. In addition to the two classes of equipment, there were upon the premises a large number of engineering tools, with regard to which no question was raised before the Recorder.

THE BASIS OF VALUATION.

On the hearing before the Recorder, the appellant contended that in arriving at the assessment of the premises, the value of the uses of the scheduled machinery to the tenant or occupier ought to be excluded from consideration. The Recorder rejected this contention of the appellant, but on a question of amount the Recorder allowed the appeal, and reduced the amount of the assessment to £46 gross estimated rental and £31 rateable value. The appellant being dissatisfied with the Recorder's decision, applied to him to state a case for the opinion of the Divisional Court on the point of principle, which the Recorder had decided against the appellant. The case as originally stated by the Recorder stood as follows:—

The respondents contended that in inquiring what was the gross estimated rental and the rateable value, the basis of the problem was to ascertain what was the rent

which a hypothetical tenant would give for the premises equipped with the scheduled machines, and including the right to the use of such machines, and that in ascertaining such rent the value of the uses of the machines must be taken into account as enhancing the rental value of the freehold. It was upon this principle that the rateable value appealed against had been assessed.

The Recorder held that the respondent's contention was correct, but that the value of the uses of the machinery was not necessarily to be arrived at by taking the cost, or value, of the machinery, and putting a percentage on such value, as was done by the respondent's valuer. The Divisional Court asked the Recorder to give his reasons in extenso, in order that there might be no doubt as to the basis upon which he framed his judgment. The Recorder then said that in the inquiry as to what was the gross estimated rental and the rateable value, the basis of the problem was to ascertain what was the rent which a hypothetical tenant would give for the engineering works as a combination of lands, buildings, and scheduled machines on a demise, which included the right to use the scheduled machines on the assumption that the hypothetical tenant would get, as part of the consideration for his rent, the right to use such machines during his tenancy, and that in this way the scheduled machines were properly being taken into account as enhancing the rental and rateable value of the freehold. The Court affirmed the judgment of the Recorder, holding that the case was covered by the decision in the Tyne Boiler case.

Mr. Balfour Browne, K.C., for the appellant, argued that in valuing the premises, the value of the uses of the machinery, other than that which formed part of the freehold, ought not to be considered. The machinery affected by this appeal ought only to be taken into account in so far as its presence afforded proof that the premises were fit for the purpose of the business, and would be likely to induce a tenant to give a higher rent for the premises than he would give if the machinery were not upon the premises. The effect of the order appealed against was to make the machinery rateable as if it were part of the freehold, notwithstanding the fact that the machinery was expressly found in the special case to form no part of the freehold. In con-

clusion, counsel contended that the Court of Appeal misinterpreted and misapplied the decision in the Tyne Boiler case in holding that the machinery should be taken into account, by assuming it to be included in a demise to a hypothetical tenant.

Mr. Walter C. Ryde followed on the same side.

THE APPEAL DISMISSED.

Without calling upon counsel for the respondents, Lord Halsbury, in moving that the appeal be dismissed with costs, said that he was of opinion that the judgments below were perfectly right. Considerable difficulty undoubtedly had arisen from confusing two different things. The question of what was or what attached to the freehold was fraught with important consequences in our law. If the statute had always been understood to refer simply to the rateable value of the four walls of the building, he could understand a good deal of the argument suggested. But it was, to his mind, enough to say that for a period of something more than half-a-century judges had recognised the fact that although a particular set of machinery might not be fixed to the freehold so as to become part of the land, yet if the place was being occupied, and the machinery in the premises used, the machinery was not to be disregarded in assessing the value of the thing used. If that was so, it seemed to him that they had nothing to do with speculation as to what particular sort of contract would be likely to be made between landlord and tenant. The overseer had difficulties enough sometimes to solve. He saw a place being conducted as a brewery, or a type-foundry. He looked at the premises and the furniture which was necessary for carrying on the business without inquiring who provided this article or that. Looking at the long series of decisions, he thought that it established the broad proposition that although the machinery might not be part of the freehold, yet it was to be taken into account in assessing the amount of the rate which was to be exacted from the tenant. That was all he meant to decide in this case. Could they enhance the amount of assessment upon a building in which there was machinery adapted for the purpose of manufacturing, although such machinery did not form part of the freehold, he was of

opinion that they could do so under those circumstances. He moved that the appeal be dismissed with costs.

Lord Macnaghten and Lord Robertson concurred.

In conclusion, the following suggestions may be worthy of consideration:—

1. That each society should furnish its officials with one or more reliable books on the subject; such as "Ryde on Rating," published at 35s. (or 28s. net through C.W.S.). A useful little book for small societies is the "Assessment and Rating Manual," by Maude and Druitt; price about 2s.; published by "Poor-Law Officers' Journal," 18 and 19, Whitefriars-street, London, E.C.

2. That societies should take a greater interest in the appointment of overseers, guardians, and assessment committees. That they should either strive to obtain direct representation on such bodies, or see that persons appointed are not antagonistic to the movement, or at any rate are men of high moral character, who will deal justly with all, whether it is a co-operative society or a private trader whose case they are considering.

3. That more use should be made of the right of inspection of minute and rate books, and, if necessary, comparisons made as to differential treatment of similar properties.

4. That societies, in building premises of any kind, should bear in mind that not only are interest and depreciation charges to meet, and the usual expenses of up-keep, but that rates, like the poor for whom they are levied, are always with us.

There are many points that could have been more fully dealt with and enumerated if time and space permitted, but it is only possible to touch the fringe of this important subject in a pamphlet of this size. Some good, however, will have been done if it serves to awaken interest on this important subject, and leads to further research with a view to obtaining redress for some of the injustices at present suffered.

**END OF
TITLE**